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REPORT AND RECOMMENDATIONS MADE BY THE PANEL OF COMMISSIONERS CONCERNING THE SIXTH INSTALMENT OF CLAIMS FOR DEPARTURE FROM IRAQ OR KUWAIT (CATEGORY "A" CLAIMS)

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Introduction

1. This report contains the recommendations to the Governing Council of the Panel of Commissioners (the "Panel") appointed to review claims for departure from Iraq or Kuwait ("category 'A' claims") pursuant to article 37(e) of the Provisional Rules for Claims Procedure (S/AC.26/1992/10, hereinafter the "Rules"), concerning the sixth and final instalment of claims submitted to the Panel by the Executive Secretary of the United Nations Compensation Commission (the "Commission").1/ Category "A" claims are claims for departure from Iraq or Kuwait during the period of 2 August 1990 to 2 March 1991 (the "relevant jurisdictional period").2/ Category "A" claims are among the "most urgent claims" for which the Governing Council decision on "Criteria for Expedited Processing of Urgent Claims" (S/AC.26/1991/1, Decision 1), has set forth "simple and expedited procedures" in order to provide "prompt compensation in full" or "substantial interim relief".

2. The first three reports issued by the Panel made recommendations with respect to 348,645 category "A" claims out of a total of more than 900,000 such claims registered with the Commission. The recommendations for the first three instalments of category "A" claims were mainly made on the basis of the expedited procedure provided by article 37 (a) of the Rules, i.e., verification by matching against information in the secretariat's computerized database.3/ In its fourth and fifth reports, which covered an additional 435,033 claims, the Panel proceeded to the second phase of verification using the expedited procedure provided by article 37(b) of the Rules, i.e., checking individual claims on the basis of sampling.4/

3. Many of the claims contained in the sixth instalment have also been verified on the basis of the sampling methodology, while others have been examined individually and have been recommended for payment, or otherwise, on the basis of the evidence of departure attached to each claim. The legal principles and issues underlying the sampling methodology, the status of this methodology under international law and various national jurisdictions, and the sampling methodology as such are discussed in the fourth report. A description of the methodology used to review claims individually is contained in section II.E, infra.

4. The Panel held a working session with the secretariat of the Commission from 17 to 20 June 1996 to discuss and approve the methodology and procedures used by the secretariat to process the sixth instalment of category "A" claims and to initiate the review of the claims included

therein. The Panel held a further session from 8 to 10 July 1996 to complete the review of claims in the sixth instalment and to finalize this report.

I. COMPOSITION OF THE SIXTH INSTALMENT OF CATEGORY "A" CLAIMS

5. The finalization of the sixth report comprising the remaining category "A" claims has been done keeping in view the suggestion made by the Governing Council that the sixth instalment of category "A" claims should be submitted to the Council for approval at its October 1996 meeting. With this report the Panel will have completed its review of all the category "A" claims that have been filed with the Commission.5/

6. All of the claims in the sixth instalment were verified through either the sampling methodology or individual examination. The majority of the claims in this instalment were reviewed pursuant to the determinations made by the Panel by applying the sampling methodology discussed in the fourth report. Among these are claims that were received at the secretariat subsequent to the 1 January 1995 filing deadline established in Governing Council Decision 23 [S/AC.26/Dec.23 (1994), Decision 23], which could not be included in the fourth or fifth instalments because they were accepted for filing by the Governing Council only after the claims included in those two instalments had already been processed through sampling. Other claims included in the sixth instalment were submitted within the submission deadline but had been kept from further processing due to possible duplication or to their being in an improper format (see section II.A and B, infra). Once these issues had been clarified, these claims were also dealt with through sampling and are now included in this instalment.

7. A small portion of the claims included in this instalment were examined individually, pursuant to the Panel's determinations as to the composition of the second instalment (see section III. A and B of the second report) and by application of the sampling methodology (see note 4). The Panel also reviewed individually the claims submitted by Iraqi dual nationals (see section II.D, infra).

8. Additionally, claims for higher individual or family amounts that were submitted by claimants who have also filed claims in other categories, contrary to the instructions of the Governing Council, are dealt with in this instalment (see section II.C, infra). Finally, this instalment includes claims that, having been approved for payment in previous

instalments, were corrected in accordance with article 41 of the Rules (see section III, infra).

II. THE PROCESSING OF THE SIXTH INSTALMENT

A. Format of claims

9. As explained in section IV.B.1 of the first report, one of the purposes of the preliminary "validation" process to which all the computerized claims in the "A" Claims Database were subjected was to determine whether they had been submitted in the proper format, i.e., whether sufficient information about the claimant's identity had been given in the claim form, whether information about family members had been provided in claims for family amounts, and whether the claims contained the proper codes for, inter alia, the amount claimed, the submitting country and the claimant's nationality. When the computer had detected that any of these technical requirements had not been met in a particular claim, such a claim had previously been separated from the other claims and had not been allowed to move to the subsequent processing stages. Therefore, no such claims had been included in the previous five instalments.

10. In order that these claims could continue to the subsequent phases of the validation process and eventually to a decision on the merits, i.e., whether the claimants departed from Iraq or Kuwait within the relevant jurisdictional period, appropriate steps were taken as are summarized below.

1. Claims with insufficient claimant identity information

11. Eleven claims were detected as having no valid information in any of the fields that would make it possible to identify the claimants (claimant's name, passport number, Kuwait's Civil Identification Number, address, sponsor's name and family members' names). The Panel did not review these claims on the merits and holds them not to be eligible for compensation.

2. Improper family claims

12. In the case of the "improper family claims", i.e., those claims where a family amount of US$5,000 or US$8,000 was claimed but no family member was listed in the corresponding field, the amounts claimed were converted to the higher individual amount of US$4,000.6/

3. Appropriate compensation amount codes

13. In the computerized category "A" claim form, two fields contain information concerning the compensation amount claimed. One is in the form of check-boxes--replicating the boxes in the original paper claim form--in which a claimant could tick one of the four amount options, i.e., US$2,500, US$4,000, US$5,000 or US$8,000. The computerized claim form converts these options into corresponding numerical codes, i.e., 1, 2, 3 or 4. These "claim amount codes" need to correspond to the "real" claim as the computer system calculates the compensation per claim on the basis of these codes and produces the report of compensation awarded per claim that is provided to the Governments and international organizations upon approval of the relevant instalment by the Governing Council.

14. The second field containing information about the amount claimed is the one in which the complete figure of any of the four amount options claimed is displayed on the computer screen in order to provide the data verification analyst with information about the amount claimed. This "total claim amount" field does not replicate any field in the original paper claim form, but rather the figure displayed is generated from the claim amount code entered, e.g., when claim amount code 1 has been entered, the total claim amount of US$2,500 appears on the computer screen.

15. Technically invalid claim amount codes were replaced by the correct codes when information was contained in the claim form that enabled the determination of the appropriate code, such as family members or total claim amount provided. Thus, for each total claim amount of US$2,500, US$4,000, US$5,000 or US$8,000, respectively, the corresponding claim amount code of 1, 2, 3 or 4, was entered to replace the existing technically invalid code.

B. Duplicate claims within the "A" claims category

16. In section IV.B.3 of the first report, the Panel noted that a number of claims in the "A" Claims Database were duplicates. This duplication was mainly due to the inadvertent multiple submission of claims or to claims being loaded more than once into the secretariat's computerized database.

17. In order to prevent multiple recovery resulting from such duplication, the secretariat carried out a three-level validation process aimed at identifying duplicate claims. First, a computer programme compared all claims to each other using the following combinations of

criteria: claimant's nationality, name and year of birth; or claimant's nationality, passport number and year of birth. Claims found to be duplicates were at that stage separated from the other claims as "possible duplicates" and kept from further processing on the merits. Therefore no "possible duplicate" claims were included in the first, second, third, fourth or fifth instalments.

18. Second, the claims were verified to determine whether "possible duplicate" claims were in fact duplicates. To do this, another computer programme compared all "possible duplicate" claims to each other using the following combinations of criteria: claimant's Civil Identification Number issued by Kuwait, nationality and birth year; or claimant's nationality, name, passport number and birth year. Claims in which any of these combinations were found to be identical were determined to be "real duplicates"; one of the claims was then subjected to further processing on the merits and the corresponding duplicate or duplicates were identified as "confirmed duplicates" and removed from further processing.

19. "Possible duplicate" claims that could not be identified as being "real duplicates" during the second stage were then subjected to a third level of validation. This consisted of a manual comparison of printouts of the data contained in the computerized claim forms such as claimant's name, nationality, passport number, date of birth, place of birth, home address or any other available information. Claims found to have the same information were determined to be "real duplicates"; one of the claims was then subjected to further processing on the merits and the corresponding duplicate or duplicates were identified as "confirmed duplicates" and removed from further processing.

20. A total of 35,905 claims from 43 countries and seven international organizations were identified as "confirmed duplicates". The remaining claims were subjected to further processing on the merits after their corresponding "confirmed duplicates" had been removed from further processing and were verified on the basis of the same sampling methodology that was used for the claims in the fourth and fifth instalments.

C. Limitations on claiming in more than one category

21. As explained in sections I.C and IV.C.2 of the first report, the filing of a category "A" claim may limit the claimant's option of filing claims in other categories before the Commission. By filing a category "A" claim for the US$4,000 individual amount or the US$8,000 family amount, a

claimant has agreed not to file claims under any other category. Also, if a claimant intends to file a claim for departure for more than US$2,500, and the loss can be documented, he or she may claim for the full amount of departure losses in a category other than category "A".

22. In Decision 21 the Governing Council established that claimants who have selected a higher amount under category "A" (US$4,000 or US$8,000) and have also filed a claim in category "B", "C" or "D", will be deemed to have selected the corresponding lower amount under category "A", i.e., US$2,500 or US$5,000 (see section IV.D.1 of the fourth report).

23. In an effort to enforce the above rules, the secretariat compared in the Claims Database all category "B" claims with the category "A" claims made for US$4,000 or US$8,000. Where a claimant who filed a category "B" claim was detected by the computer to have also filed a category "A" claim for US$4,000 or US$8,000, these amounts were respectively reduced to US$2,500 and US$5,000 in the category "A" claim, pursuant to Decision 21.

24. In addition, the secretariat is in the process of comparing all category "C" and "D" claims with the category "A" claims made for US$4,000 or US$8,000. Since not all of the category "C" and "D" claims that have been submitted to the Commission have been loaded into the Claims Database yet, this comparison can only be completed once the loading is concluded. Should a claimant who has filed a category "C" or "D" claim be detected to have also filed a category "A" claim for any of the higher amounts, the reduction in the amount of the claim that is mandated by Decision 21, and any consequential corrections, will be carried out by the secretariat at the time that the comparison has been completed.7/

25. Also, a comparison in the Claims Database of all of the category "C" claims containing a "C1" departure claim against all of the category "A" claims is being performed. If, as a result of this comparison, a claimant who has filed a "C1" departure claim is detected to have also filed a category "A" claim, the corresponding deduction will be made from the amount claimed in category "C".8/ A similar comparison will be made between all category "D" claims containing a "D1" departure claim and all of the category "A" claims.

26. In several cases, the comparison procedures described in paragraph 23, supra, affected category "A" claims that had already been approved for payment in previous instalments. This made it necessary to correct the corresponding awards (see section III, infra).

D. Claims filed on behalf of Iraqi nationals

27. Governing Council Decision 1 established that "[c]laims will not be considered on behalf of Iraqi nationals who do not have bona fide nationality of any other State" (S/AC.26/1991/1, Decision 1, paragraph 17). As a result, unless Iraqi nationals have a second nationality they are not eligible to claim compensation before the Commission. This also means that, to be entitled to claim compensation, the second nationality must be possessed in good faith.

28. Neither the Rules nor other Governing Council decisions define the term "bona fide nationality". Therefore, the Panel had to establish the criteria to be met in order for an Iraqi dual national to be considered a bona fide holder of a second nationality.

29. In adopting a method to deal with this issue, the Panel was mindful of two considerations: (1) that the claims in connection with which this issue arose were "urgent claims" for the compensation of which "expedited procedures" had been prescribed by the Governing Council (Decision 1); and (2) that the issue to be determined was whether the second nationality was acquired bona fide in the context of eligibility to be able to claim compensation before the Commission. Neither consideration involved the more complex issue of the effectiveness of nationality. The Panel, therefore, aimed for a method of evaluating the bona fide nationality of these claimants that could be applied without having to resort to lengthy procedures that are incompatible with an expedited approach.9/

30. The logic of the method adopted by the Panel is based on the object of the determination that is to be made, namely, whether an Iraqi dual national had acquired his or her second nationality mainly or solely for the purpose of becoming eligible to claim compensation before the Commission. Applying this logic, it seemed reasonable to hold that an Iraqi dual national would not be considered to have applied for or acquired a second nationality in bad faith if he or she had applied for the second nationality before the eligibility criteria for claims had been established by the Governing Council in Decision 1 on 2 August 1991 ("the relevant date"). Thus, if an Iraqi dual national had applied for or acquired a second nationality before the relevant date, he or she was considered to be the bona fide holder of the second nationality.

31. This would not have precluded the Panel from holding that where an Iraqi dual national had acquired the second nationality after the relevant

date, the second nationality was acquired bona fide, if the particular facts and circumstances of the case justified such a conclusion. In fact, however, the records show that no Iraqi dual national who had submitted a claim had applied for or acquired a second nationality after the relevant date. The Panel, therefore, holds that all Iraqi dual nationals who filed claims with the Commission were holders in good faith of their second nationality.

32. Given the limited number of claims filed by Iraqi dual nationals, the Panel decided that determination on the merits, i.e., whether the claimants departed from Iraq or Kuwait within the relevant jurisdictional period, should be based on an individual review and assessment of the original paper claim forms.

33. In compliance with Decision 1, the Panel did not consider the claims filed on behalf of four Iraqi nationals who do not have the nationality of another country.

E. Methodology adopted for the individual review of claims

34. Article 37 of the Rules authorized the use of further verification, as circumstances warrant, for those claims that could not be verified through matching or sampling. Pursuant to this provision, and on the basis of the results of the review of the claims on a sample basis (see paragraphs 82 and 83 of the fourth report), the Panel determined that certain claims were to be subjected to individual review. These claims included:

(a) claims that were registered in the system as having a date of departure outside the relevant jurisdictional period;

(b) claims that were registered as having no evidence attached; and

(c) claims that were registered as having types of evidence that were not, or were poorly, represented in the sample of the claims filed by the respective Governments and international organizations.

35. In total, 31 Governments and one international organization submitted claims that fell into one or more of these categories.

1. Identification of the claims

36. The claims that fell into one of the above categories were first identified in the category "A" Claims Database. Lists of these claims were

then produced and sent to the respective Governments and international organizations with cover letters requesting that the original paper claim forms, together with their attachments, be forwarded to the secretariat.

2. Assessment of the claims

(a) Determinations on the evidentiary value of documentation attached to claims

37. The general determinations that the Panel made on the probative value of the evidence in the context of the sampling review were also applied to the individual review of the claims. In determining the probative value of the different types of evidence attached to the claim forms the Panel applied the legal criterion set out in Decision 1 and the Rules, i.e., proof of departure from Iraq or Kuwait during the period of 2 August 1990 and 2 March 1991, as well as the general determinations made regarding the evidentiary value of the Arrival/Departure Records (see section IV.D.3 of the first report).

(b) Review and assessment of the claims

38. The individual review of the claims involved the manual examination by the secretariat of every claim form together with the evidence attached in order to determine whether the claimant departed from Iraq or Kuwait within the relevant jurisdictional period. The same evidentiary items that were recognized as establishing proof of departure during the sampling review of the claims were also recognized for the individual review (see section E.2 of the fourth report).

(i) General determinations

39. After reviewing samples of the claims processed by the secretariat, the Panel made a number of general determinations. Unlike the sampling exercise, where three possible assessment categories were adopted (i.e., "conclusive", "possible" and "insufficient"), only two assessment categories were adopted for the individual review of claims: "conclusive" and "insufficient".

40. Claims were assessed as "conclusive" where:

(a) the claimant submitted an item of evidence that by itself proved departure from Iraq or Kuwait within the relevant jurisdictional period;

(b) the claimant submitted a combination of items of evidence which proved departure from Iraq or Kuwait within the relevant jurisdictional period;

(c) the claimant submitted an attestation from his or her Government or employer confirming that he or she was in Iraq or Kuwait and left during the relevant jurisdictional period;

(d) the claimant submitted a statement describing his or her departure from Iraq or Kuwait within the relevant jurisdictional period and the circumstances of the departure fell into a pattern that had been identified amongst other claimants that were assessed as "conclusive".

41. Claims were assessed as "insufficient", and thereby held not to be eligible for compensation, where:

(a) the claimant did not attach any evidence to his or her claim form;

(b) the claimant attached evidence that manifestly disproved that he or she left Iraq or Kuwait within the relevant jurisdictional period;

(c) the claimant attached evidence that was considered to have no probative value to establish his or her presence in, and departure from, Iraq or Kuwait within the relevant jurisdictional period.

(ii) Specific determinations

42. In reviewing the claims submitted by each Government and international organization which were not covered by the above general determinations, the Panel decided that such claims were to be assessed as "conclusive" if the following evidentiary items were attached to the claim form:

(a) an item proving presence in Iraq or Kuwait within the relevant jurisdictional period combined with:

(i) a personal statement asserting departure; or

(ii) a certification of entry into the claimant's home country issued by the immigration authorities; or

(iii) a departure date within the relevant jurisdictional period stated on the claim form;

(b) a personal statement asserting departure from Iraq or Kuwait within the relevant jurisdictional period combined with:

(i) a departure date within the relevant jurisdictional period stated on the claim form; or

(ii) a declaration by a Government official confirming the facts described by the claimant in his or her personal statement; or

(iii) a written confirmation by Government authorities of the loss of the claimant's personal documents.

43. In addition to the above specific determinations, in a number of cases claims were assessed to be "conclusive" where, having regard to the fact that a departure date within the relevant jurisdictional period was stated on the claim form and other facts and circumstances, weight was given to such evidentiary items as:

(a) an attestation issued by the claimant's employer confirming that the claimant was employed in Iraq or Kuwait during a period covering the relevant jurisdictional period; or

(b) a renewable work visa issued by the Iraqi or Kuwaiti authorities before the relevant jurisdictional period; or

(c) an entry stamp into the claimant's home country within the relevant jurisdictional period; or

(d) an immigration document granting the claimant leave to enter a third country; or

(e) the name of the claimant's sponsor or employer if that name was similar to that of other claimants that were assessed as "conclusive".

44. In reviewing the claims and coming to its conclusions as to whether the claims should be assessed as "conclusive" or "insufficient", the Panel took into consideration other relevant information such as the departure reports prepared by the secretariat describing the socio-economic background and evacuation routes of the foreign worker communities in Iraq and Kuwait for the countries that together submitted the majority of category "A" claims, the Manual of Arrival/Departure Records that were used during the matching exercise, and the summary reports describing the results of the review of the sample of each country or international organization. Finally, the Panel kept in view the specific determinations made by it during the sampling of the claims.

III. CORRECTIONS OF DECISIONS

45. The secretariat has drawn the attention of the Panel to the fact that the compensation amounts approved in previous instalments for payment to a number of claimants from several countries needed to be amended. In some cases the need for amendments was brought to the attention of the secretariat by the submitting Governments in accordance with article 41 of the Rules.

46. In other cases, the secretariat, while performing the necessary searches for duplicate claims within category "A" and between categories "A" and "B", identified claims that needed to be amended. As a result of the process described in section II.B, supra, some duplicate claims were found to have been approved in more than one instalment. Also, the comparison described in section II.C, supra, showed that payment of compensation had already been approved for some of the category "A" claimants who had claimed for higher amounts and had also filed a category "B" claim.

47. In light of the above, the Panel recommends that the revised compensation amounts as listed in the following tables be approved for payment:

FIRST INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Bosnia and Herzegovina	408,000.00	404,000.00
France	997,500.00	992,500.00
India	24,736,000.00	24,728,500.00
Iran	672,000.00	590,500.00
Pakistan	12,226,000.00	12,221,000.00

SECOND INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Bangladesh	51,523,000.00	51,519,000.00
Czech and Slovak Federal Republic a/	55,000.00	58,000.00
India	50,158,500.00	50,127,500.00
Iran	52,977,500.00	50,266,000.00
Jordan	95,988,500.00	96,437,000.00
Kuwait	87,259,500.00	87,523,500.00
Pakistan	19,835,500.00	19,819,000.00
Philippines	5,779,500.00	5,767,500.00
Sri Lanka	77,284,000.00	77,278,500.00
United States	263,500.00	261,000.00
UNDP (Jerusalem)	52,500.00	42,500.00

THIRD INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Egypt	174,295,500.00	174,259,000.00

a/ These claims were submitted before the Czech and Slovak Federal Republic ceased to exist. Awards of compensation will have to be paid to the Governments of the Czech Republic and the Slovak Republic, respectively, pursuant to an agreement between the two Governments.

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Federal Republic of Yugoslavia (Serbia & Montenegro)	1,016,000.00	1,012,000.00
India	16,173,500.00	16,139,000.00
Iran	68,089,000.00	67,718,000.00
Jordan	93,155,000.00	93,314,000.00
Kuwait	104,650,500.00	104,627,000.00
Philippines	6,039,500.00	5,515,500.00
Sri Lanka	52,929,500.00	52,457,000.00
United States	168,500.00	165,500.00

FOURTH INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Bangladesh	52,767,500.00	52,759,500.00
Bosnia & Herzegovina	3,553,000.00	3,541,000.00
Egypt	207,373,000.00	207,354,000.00
Federal Republic of Yugoslavia (Serbia & Montenegro)	3,761,000.00	3,773,000.00
India	145,209,500.00	144,894,500.00
Iran	4,270,000.00	3,485,000.00
Jordan	17,708,500.00	17,642,500.00
Kuwait	41,002,500.00	40,990,500.00
Lebanon	3,916,500.00	3,911,500.00
Pakistan	22,829,000.00	22,808,000.00
Philippines	30,684,500.00	30,591,000.00
Sri Lanka	71,994,500.00	71,978,500.00
Sudan	39,814,500.00	39,817,500.00
Syria	26,360,000.00	26,352,000.00
Turkey	6,306,000.00	6,302,000.00
United Kingdom	1,379,500.00	1,380,000.00
United States	836,000.00	812,500.00
Yemen	25,572,500.00	25,565,500.00

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
UNDP (United Arab Emirates)	2,500.00	8,000.00

FIFTH INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Bangladesh	52,372,500.00	52,351,000.00
Bosnia & Herzegovina	3,532,000.00	3,528,000.00
Canada	407,000.00	386,500.00
China	5,716,000.00	5,712,000.00
Egypt	217,074,000.00	217,009,000.00
Federal Republic of Yugoslavia (Serbia & Montenegro)	3,818,500.00	3,794,500.00
India	145,908,500.00	145,473,000.00
Iran	4,502,000.00	3,753,000.00
Jordan	17,416,000.00	17,281,500.00
Kuwait	39,897,500.00	39,883,500.00
Lebanon	3,923,000.00	3,908,000.00
Pakistan	23,213,500.00	23,178,000.00
Sudan	38,661,000.00	38,662,000.00
Syria	26,823,500.00	26,801,000.00
United Kingdom	1,316,500.00	1,308,500.00
United States	838,500.00	833,500.00
Yemen	29,195,000.00	29,181,000.00
UNHCR (Canada)	63,000.00	59,000.00

48. The Panel recommends that any reduction in the amount claimed under category "A", pursuant to Decision 21, that may result from having identified a claimant who has submitted a category "A" claim for a higher compensation amount and a category "C" and/or "D" claim should be carried out by the secretariat when the comparison between the claims in these categories is complete (see paragraph 24, supra). Necessary corrections in

compensation amounts payable should be made at that time. All Governments and international organizations concerned will be notified in due course.

IV. RECOMMENDED COMPENSATION FOR THE SIXTH INSTALMENT OF CATEGORY "A" CLAIMS

49. Pursuant to article 37(e) of the Rules, the Panel hereby presents its recommendations on the claims comprising the sixth instalment of category "A" claims.

50. Having considered the results of the verification of claims accomplished through sampling and individual review and having further considered all relevant circumstances and materials available with the Commission, the Panel recommends for payment of compensation 80,456 claims submitted by 59 Governments and by seven international organizations. The total recommended awards of compensation for the sixth instalment amounts to US$319,730,500.

51. The following summary table lists on a country-by-country basis the number of claims for which payment is recommended and the total recommended amount of compensation, as well as the number of claims which were held by the Panel not to be eligible for compensation:

RECOMMENDED COMPENSATION AMOUNTS

Country	Number of Claims Not Recommended for Payment	Number of Claims Recommended for Payment	Amount of Compensation Recommended (US$)
Algeria	3	-	-
Australia	2	14	64,500.00
Austria	-	15	69,500.00
Bahrain	14	7	28,500.00
Bangladesh	353	16,947	66,178,000.00
Bosnia and Herzegovina	-	501	2,048,000.00
Brazil	7	147	616,500.00
Bulgaria	-	2	13,000.00
Canada	-	11	51,000.00
China	-	102	408,000.00
Croatia	-	1	4,000.00

Country	Number of Claims Not Recommended for Payment	Number of Claims Recommended for Payment	Amount of Compensation Recommended (US$)
Czech and Slovak Federal Republic b/	-	3	13,000.00
Egypt	40	6,837	18,745,500.00
Ethiopia	-	24	90,000.00
Federal Republic of Yugoslavia (Serbia and Montenegro)	-	215	880,000.00
France	2	6	27,000.00
Germany	3	1	4,000.00
Greece	1	-	-
Hungary	-	2	12,000.00
India	446	4,439	17,441,500.00
Iran	-	1,068	5,838,000.00
Ireland	4	7	22,000.00
Italy	-	11	35,500.00
Japan	1	13	67,500.00
Jordan	12,902	4,257	18,736,500.00
Kenya	6	-	-
Korea, Republic of	-	17	61,000.00
Kuwait	-	2,689	17,170,000.00
Lebanon	-	164	410,000.00
Malta	2	-	-
Mauritius	1	1	4,000.00
Morocco	16	606	2,468,500.00
Nepal	-	10	40,000.00
Netherlands	-	1	8,000.00
New Zealand	-	1	4,000.00
Norway	1	-	-
Pakistan	1	12,047	46,786,000.00

b/ These claims were submitted before the Czech and Slovak Federal Republic ceased to exist. Awards of compensation will have to be paid to the Governments of the Czech Republic and the Slovak Republic, respectively, pursuant to an agreement between the two Governments.

Country	Number of Claims Not Recommended for Payment	Number of Claims Recommended for Payment	Amount of Compensation Recommended (US$)
Philippines	17	15,353	61,056,000.00
Poland	2	502	2,038,000.00
Romania	-	21	55,000.00
Russian Federation	48	598	3,380,000.00
Senegal	-	1	4,000.00
Slovenia	-	2	6,500.00
Somalia	3	3	15,500.00
Spain	3	1	4,000.00
Sri Lanka	4,724	9,242	36,889,500.00
Sudan	-	134	512,000.00
Sweden	3	-	-
Switzerland	2	-	-
Syria	72	1,457	5,218,500.00
Thailand	2	567	2,248,500.00
The former Yugoslav Republic of Macedonia	-	3	12,000.00
Tunisia	130	499	1,867,000.00
Turkey	-	348	1,300,500.00
Ukraine	7	44	180,000.00
United Kingdom	4	102	348,500.00
United States	-	9	30,000.00
Vietnam	-	871	3,484,000.00
Yemen	13	394	1,823,500.00
UNDP (Algeria)	-	5	24,000.00
UNDP (Jerusalem)	-	9	37,000.00
UNDP (Washington)	5	1	4,000.00
UNDP (Yemen)	-	114	807,000.00
UNHCR (Bulgaria)	55	7	30,000.00
UNHCR (Canada)	3	-	-
UNHCR (Geneva)	1	3	10,500.00
Total	18,899	80,456	319,730,500.00

52. A table containing the breakdown of the amounts to be paid to each individual claimant and a list of the individual claimants held by the Panel not to be eligible for compensation will be provided to each respective Government and international organization.

53. On the basis of the considerations formulated in section IV.C.3. of the first report, the Panel reiterates its recommendation that interest should be paid on the awarded amounts in category "A" claims in accordance with the Governing Council Decision on "Awards of Interest" (S/AC.26/1992/16, Decision 16). The Panel reiterates its opinion that the phrase "the date the loss occurred", referred to in Decision 16, should be interpreted to be a single date for all category "A" claims and that the date of the invasion, 2 August 1990, should serve as that date.

54. The sixth report marks the completion of the review of category "A" claims. The mandate of the Panel required it to apply "simple and expedited procedures" to deal with claims that were regarded as among "the most urgent claims." The overwhelming majority of these nearly one million claims were submitted by workers who had to leave Kuwait or Iraq between 2 August 1990 and 2 March 1991 following Iraq's invasion of Kuwait. The prompt payment of compensation to these claimants, as well as the provision of interim relief, has thus been considered to be a matter of the utmost urgency. In discharging its responsibilities, the Panel has endeavoured to maintain a just balance between the claimants' interest in an expeditious determination and the need to ensure the proper verification of the claims. In order to accomplish this, the Panel applied objective criteria ing innovative and practical techniques and methods which enabled the Panel to carry out expeditious verification of claims in a manner consonant with the requirements of fairness and justice.

55. The Panel renews its exhortations in its earlier reports (see paragraph 93 of the fourth report and paragraph 11 of the fifth report) that resources should be found to effect prompt payment of compensation approved by the Governing Council so as to provide meaningful relief as expeditiously as possible in order to give credibility to the compensation programme established by the United Nations Security Council. The Panel urges that due priority be accorded as regards full payment of US$4,000 or US$8,000, pursuant to the terms of Decision 17 [S/AC.26/Dec.17 (1994)], to category "A" claimants who, in accordance with the Governing Council's directives, did not file claims in any other category.10/

Geneva, 10 July 1996

(Signed) Kamal Hossain
Chairman

(Signed) Matti Pellonpää
Commissioner

(Signed) Rafael Rivas-Posada
Commissioner

Notes

1/ The recommendations concerning the first instalment of claims are contained in the "Report and Recommendations Made by the Panel of Commissioners Concerning the First Instalment of Claims for Departure from Iraq or Kuwait (Category 'A' Claims)" (S/AC.26/1994/2, the "first report"). General information regarding the establishment of the United Nations Compensation Commission in the aftermath of the Gulf crisis as well as the composition of the Panel are contained in the introduction to the first report. The recommendations concerning the second instalment of claims are contained in the "Report and Recommendations Made by the Panel of Commissioners Concerning the Second Instalment of Claims for Departure from Iraq or Kuwait (Category 'A' Claims)" (S/AC.26/1995/2, the "second report"). The recommendations concerning the third instalment of claims are contained in the "Report and Recommendations Made by the Panel of Commissioners Concerning the Third Instalment of Claims for Departure from Iraq or Kuwait (Category 'A' Claims)" (S/AC.26/1995/3, the "third report"). The recommendations concerning the fourth instalment of claims are contained in the "Report and Recommendations Made by the Panel of Commissioners Concerning the Fourth Instalment of Claims for Departure from Iraq or Kuwait (Category 'A' claims)" (S/AC.26/1995/4, the "fourth report"). The recommendations concerning the fifth instalment of claims are contained in the "Report and Recommendations made by the Panel of Commissioners Concerning the Fifth Instalment of Claims for Departure from Iraq or Kuwait (Category 'A' Claims)" (S/AC.26/1995/5, the "fifth report").

2/ For a more detailed description of the nature of category "A" claims, the Claim Form "A", and the amounts that can be claimed under this category, see section I of the first report.

3/ For a detailed description of the matching methodology see section IV.D. of the first report.

4/ For a detailed description of the sampling methodology see section IV.E. of the fourth report.

5/ The Panel notes that while the sixth report concludes the review of all the category "A" claims filed with the Commission it may be necessary to report subsequent corrections and amendments that may arise in the future, pursuant to article 41 of the Rules. The Panel also notes that the total number of category "A" claims reviewed by the Panel in instalments one through six is less than the total number of category "A" claims reported in the Executive Secretary's reports to the Governing Council pursuant to article 16 of the Rules. These differences are as a result of a combination of factors (e.g., consolidated claims withdrawn then resubmitted, in total or in part; claims that, for technical reasons, were not originally reflected in the database; and duplicate claims).

6/ This amount may still be changed to the lower individual amount of US$2,500, pursuant to the Governing Council's decision on "Multi-Category Claims" (S/AC.26/Dec.21 (1994), Decision 21), if the check across claims categories determines that a category "A" claimant filing for the higher individual or family amount has also filed a claim in categories "B", "C" or "D". This cross-category check will be carried out against category "C" and "D" claims as they are loaded into the computerized database (see para. 24, of this report).

7/ Since subsequent payments beyond the initial US$2,500 to be paid to successful claimants pursuant to the Governing Council's decision on "Priority of payment and payment mechanism" (S/AC.26/Dec.17 (1994), Decision 17) are not expected to be made before the loading of all of the category "C" and "D" claims into the Claims Database is completed, the implementation of these reductions in award amounts will not conflict with the Commission's projected payment schedule.

8/ If the amount claimed under category "A" is US$2,500 or US$4,000, the amount to be deducted from the total amount to be recommended for the category "C" claim is US$2,500. If the amount claimed under category "A" is US$5,000 or US$8,000, the amount to be deducted from the total amount to be recommended in the category "C" claim is US$5,000.

9/ E.g., inter alia, those procedures relating to the "dominant and effective nationality" criterion established by the Iran-United States Claims Tribunal in case No. A-18 (Iran-United States Claims Tribunal Reports, vol. 5, 1984, pp. 251-266); the "real and effective nationality" criterion developed by the International Court of Justice in the Nottebohm case (I.C.J. Reports, 1955, pp. 4-27); and the "effective nationality" criterion used in the Canevaro arbitration (R.I.A.A., vol. 11, 1961, pp. 397-410). All of these precedents rely on the evaluation of the particular circumstances, both legal and factual, of each individual claimant.

10/ See para. 15 of the third report in which the Panel noted that, at its sixteenth session, the Governing Council had "decided to keep under advisement, and at an appropriate time consider, whether the Commission's procedures for making payments to successful claimants should be implemented as proposed by the Commissioners, i.e. that all successful claimants who had submitted category "A" claims for higher amounts but had not submitted claims in any other category, receive full payment of those amounts, pursuant to the terms of Decision 17, before any additional amounts beyond the initial US$2,500 are paid to the category "A" claimants who submitted claims for such higher amounts but had also filed claims in other categories. In considering this matter, the Governing Council would take into account the views of the secretariat regarding this proposal's feasibility and implications".